

DAVID D. WILBON, RICO M. WILBON,
and GEORGE J. SMITH,

Plaintiffs,

V.

JOSEPH M. PLOVANICH, et al.,

Defendants.

No. 12 CV 1132

Hon. Marvin E. Aspen

MEMORANDUM OPINION AND ORDER

MARVIN E. ASPEN, District Judge:

Presently before us are two motions. The first is Plaintiffs' motion to strike Defendants' memorandum of law in support of their motion for summary judgment for exceeding the page number limit and the number of statement of facts allowed, or in the alternative, to extend the time in which a response may be filed by Plaintiffs. (Dkt. No. 196.) The second is Plaintiffs' motion for order extending deadline for Plaintiffs to respond to Defendants' motion for summary judgment, and allowing Plaintiffs to file a memorandum in excess of 15 pages and file more than 40 statements of additional facts. (Dkt. No. 210.)

Given the confusing procedural history in this case, we first review the filings. On August 22, 2013, Defendants filed an unopposed motion for leave to file in excess of the local rule's 15-page limit for their memorandum of law in support of their motion for summary judgment and for leave to file in excess of 80 facts for their 56.1 statements of fact in support of their motion for summary judgment. (Dkt. No. 167.) On August 26, 2013, we granted Defendants' motion. (Dkt. No. 170.)

Accordingly, Defendants filed their 35-page memorandum of law (Dkt. No. 191) and 118 statements of fact (Dkt. No. 192) on November 20, 2013. The next day, Plaintiffs filed their motion to strike Defendants' memorandum of law in support of their motion for summary judgment for exceeding the page number limit and the number of statement of facts allowed or in the alternative, to extend the time in which a response may be filed by Plaintiffs. (Dkt. No. 196.) We then issued an order instructing Defendants to respond to Plaintiffs' motion to strike and for Plaintiffs to reply. (Dkt. No. 199.) Defendants filed their response on December 4, 2013 (Dkt. No. 208), and Plaintiffs filed their reply on December 6, 2013 (Dkt. No. 209). In their reply, Plaintiffs acknowledged that they failed to recall that we had already granted Defendants' unopposed motion to file in excess of the page limit and number of facts allowed. (Dkt. No. 209.)

On December 3, 2013, Plaintiffs filed a 22-page memorandum of law in support of their cross motion for summary judgment in excess of the rule's page limit (Dkt. No. 203) with our permission (Dkt. No. 207). Plaintiffs also filed 79 statements of facts. (Dkt. No. 204.)

We first address Plaintiffs' motion to strike. As Plaintiffs' acknowledged, we have already granted Defendants' motion to file a memorandum and statements of fact in excess of the local rule's limits. We therefore deny Plaintiffs' motion to strike. We grant, however, Plaintiffs' request for an extension of time to file their response to Defendants' motion for summary judgment, in light of Plaintiffs counsel's medical issue, which requires her to be on medical leave until January 6, 2014. Plaintiffs have until February 3, 2014 to complete their response.

Next, we address Plaintiffs' second motion. Having just granted Plaintiffs' motion for extension of time, we address only Plaintiffs' motion to file a 35-page memorandum of law, and 80 statements of additional facts. Our understanding of Plaintiffs' request to file a 35-page memorandum is that they are seeking permission to file a 35-page response to Defendants' motion for

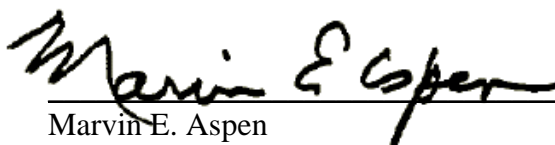
summary judgment. We therefore grant Plaintiffs' motion to file a 35-page response. We also grant Plaintiffs' request to file 80 statements of additional facts, in light of Defendants' 80 statements of fact.

In sum, we deny Plaintiffs' motion to strike Defendants' memorandum, but grant their motion for an extension of time to file their response to Defendants' motion for summary judgment. We also grant Plaintiffs' request to file a 35-page response to Defendants' motion for summary judgment and Plaintiffs' request to file 80 statements of additional facts.

The briefing schedule previously set in this Court's minute order of November 22, 2013 (Dkt. No. 200) is vacated. Our final briefing schedule is as follows. Plaintiffs' response, which may not exceed 35 pages, is to be filed by February 3, 2014. Defendants have two weeks, until February 17, to file their reply, which may not exceed ten pages.

The briefing schedule with regard to Plaintiffs' motion for summary judgment will be the same. Since Plaintiffs filed their motion for summary judgment twelve days after Defendants' motion, Defendants have until February 17 to file their response, which may not exceed 22 pages. Lastly, Plaintiffs have until March 3 to file their reply, which may not exceed ten pages.

The status has been reset to June 26, 2014. It is so ordered.



Marvin E. Aspen
United States District Judge

Dated: Chicago, Illinois
December 16, 2013